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the procedures in paragraphs (g)(2) or (g)(4) of this section.

(3) No fiscal year payment to a title IV-E agency will be reduced by more than 5 percent of its title IV-E funds, as defined in paragraph (f) of this section, where the title IV-E agency has been determined to be out of compliance with section 471(a)(18) of the Act.

(4) The title IV-E agency or an entity, as applicable, will be liable for interest on the amount of funds reduced by the Department, in accordance with the provisions of 45 CFR 30.18.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0970-0214. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

[65 FR 4082, Jan. 25, 2000, as amended at 66 FR 58676, Nov. 23, 2001; 77 FR 931, Jan. 6, 2012]

### § 1355.39 Administrative and judicial review.

A title IV-E agency determined not to be in substantial conformity with titles IV-B and IV-E plan requirements, or a title IV-E agency or an entity in violation of section 471(a)(18) of the Act:

(a) May appeal, pursuant to 45 CFR part 16, the final determination and any subsequent withholding of, or reduction in, funds to the HHS Departmental Appeals Board within 60 days after receipt of a notice of nonconformity described in §1355.36(e)(1) of this part, or receipt of a notice of noncompliance by ACF as described in §1355.38(a)(3) of this part; and

(b) Will have the opportunity to obtain judicial review of an adverse decision of the Departmental Appeals Board within 60 days after the title IV-E agency or entity receives notice of the decision by the Board. Appeals of adverse Department Appeals Board decisions must be made to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.

(c) The procedure described in paragraphs (a) and (b) of this section will

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not apply to a finding that a title IV-E agency or an entity has been determined to be in violation of section 471(a)(18) which is based on a judicial decision.

[65 FR 4083, Jan. 25, 2000, as amended at 77 FR 932, Jan. 6, 2012]

### § 1355.40 Foster care and adoption data collection.

(a) *Scope of the data collection system.*

(1) Each title IV-E agency which administers or supervises the administration of titles IV-B and IV-E must implement a system to collect data. The data reporting system must meet the requirements of §1355.40(b) and electronically report certain data regarding children in foster care and adoption. The foster care data elements are listed and defined in Appendix A to this part and the adoption data elements are listed and defined in Appendix B to this part.

(2) For the purposes of foster care reporting, each data transmission must include all children in foster care for whom the title IV-E agency has responsibility for placement, care, or supervision. This includes American Indian children covered under the assurances in section 422(b)(8) of the Act on the same basis as any other child. For children in care less than 30 days, only a core set of information will be required, as noted in Appendix A to this part. For children who enter foster care prior to October 1, 1995 and who are still in the system, core data elements will be required; in addition, the title IV-E agency also will be required to report on the most recent case plan goal affecting those children. For children in out-of-State placement, the State placing the child and making the foster care payment submits and continually updates the data. For children in the Tribal title IV-E agency's placement and care responsibility who are placed outside of the Tribal service area, the Indian Tribe placing the child and making foster care payments submits and continually updates the data for each such child.

(3) For the purposes of adoption reporting, data are required to be transmitted by the title IV-E agency on all adopted children who were placed by

the title IV-E agency, and on all adopted children for whom the agency is providing adoption assistance (either ongoing or for nonrecurring expenses), care or services directly or by contract or agreement with other private or public agencies. Full adoption data as specified in appendix B to this part are required only for children adopted after the implementation date of October 1, 1994. For children adopted prior to October 1, 1994, who are continuing to receive title IV-E subsidies, aggregate data are to be reported. For a child adopted out-of-State, the title IV-E agency which placed the child submits the data. Similarly, the Tribal title IV-E agency which placed the child outside of the Tribal service area for adoption submits the data.

(b) *Foster care and adoption reporting requirements.* (1) The title IV-E agency shall transmit semi-annually, within 45 days of the end of the reporting period (i.e., by May 15 and November 14), information on each child in foster care and each child adopted during the reporting period. The information to be reported consists of the data elements found in appendices A and B to this part. The data must be extracted from the data system as of the last day of the reporting period and must be submitted in electronic form as described in appendix C to this part and in record layouts as delineated in appendix D to this part.

(2) For foster care information, the child-specific data to be transmitted must reflect the data in the information system when the data are extracted. Dates of removal from the home and discharge from foster care must be entered in accordance with paragraph (d)(1) of this section. The date of the most recent periodic review (either administrative or court) must be entered for children who have been in foster care for more than nine months. Entry of this date constitutes title IV-E agency certification that the data on the child have been reviewed and are current.

(3) Adoption data are to be reported during the reporting period in which

the adoption is legalized or, at the title IV-E agency's option, in the following reporting period if the adoption is legalized within the last 60 days of the reporting period. For a semi-annual period in which no adoptions have been legalized, the title IV-E agency must report such an occurrence.

(4) A summary file of the semi-annual data transmission must be submitted and will be used to verify the completeness of the title IV-E agency's detailed submission for the reporting period.

(5) A variety of internal data consistency checks will be used to judge the internal consistency of the semi-annual detailed data submission. These are specified in Appendix E to this part.

(c) *Missing data standards.* (1) The term "missing data" refers to instances where no data have been entered, if applicable, for a particular data element. In addition, all data elements which fail a consistency check for a particular case will be converted to missing data. All data which are "out of range" (i.e., the response is beyond the parameters allowed for that particular data element) will also be converted to missing data. Details of the circumstances under which data will be converted to missing data are specified in appendix E to this part. Data elements with responses of "cannot be determined" or "not yet determined" are not considered as having missing data.

(2) Substantial noncompliance occurs when missing data exceed 10 percent for any one data element.

(d) *Timeliness of foster care data reports.* Ninety percent of the subject transactions must have been entered into the system within 60 days of the event (removal from home or discharge from foster care) or the title IV-E agency will be found in substantial noncompliance.

(e) *Substantial Noncompliance.* Failure by a title IV-E agency to meet any of the standards described in paragraphs

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(a) through (d) of this section is considered a substantial failure to meet the requirements of the title IV-E plan.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0267. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

[58 FR 67924, Dec. 22, 1993, as amended at 60 FR 40507, Aug. 9, 1995; 65 FR 4084, Jan. 25, 2000; 66 FR 58676, Nov. 23, 2001; 77 FR 932, Jan. 6, 2012]

### § 1355.50 Purpose of this part.

This part sets forth the requirements and procedures title IV-E agencies must meet in order to receive Federal financial participation for the planning, design, development, installation and operation of statewide or Tribal automated child welfare information systems authorized under section 474(a)(3)(c) of the Act.

[77 FR 933, Jan. 6, 2012]

### § 1355.52 Funding authority for statewide or Tribal automated child welfare information systems (SACWIS/TACWIS).

(a) Title IV-E agencies may receive Federal reimbursement at the 50 percent level for expenditures related to the planning, design, development and installation of a statewide or Tribal automated child welfare information system, to the extent such system:

(1) Provides for the title IV-E agency to collect and electronically report certain data required by section 479(b) of the Act and § 1355.40 of this part;

(2) To the extent practicable, provides for an interface with the data collection system for child abuse and neglect;

(3) To the extent practicable, provides for an interface with and retrieval of information from the State or Tribal automated information system that collects information relating to the eligibility of individuals under title IV-A of the Act; and

(4) Provides for more efficient, economical and effective administration of the programs carried out under a plan approved under title IV-B and title IV-E.

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(b) Title IV-E agencies may also be reimbursed for the full amount of expenditures for the hardware components for such systems at the rate provided under paragraph (a) of this section.

(c) Expenditures for the operation of the automated information system described in paragraph (a) of this section are eligible for FFP at the 50 percent matching rate.

[58 FR 67945, Dec. 22, 1993, as amended at 77 FR 933, Jan. 6, 2012]

### § 1355.53 Conditions for approval of funding.

(a) As a condition of funding, the SACWIS or TACWIS must be designed, developed (or an existing system enhanced), and installed in accordance with an approved advance planning document (APD). The APD must provide for a design which, when implemented, will produce a comprehensive system, which is effective and efficient, to improve the program management and administration of the plans for titles IV-B and IV-E as provided under this section.

(b) At a minimum, the system must provide for effective management, tracking and reporting by providing automated procedures and processes to:

(1) Meet the Adoption and Foster Care reporting requirements through the collection, maintenance, integrity checking and electronic transmission of the data elements specified by the Adoption and Foster Care Analysis and Reporting System (AFCARS) requirements mandated under section 479(b) of the Act and § 1355.40 of this part;

(2) Provide, for electronic exchanges and referrals, as appropriate, with the following systems within the State or Tribe, unless the title IV-E agency demonstrates that such interface or integration would not be practicable because of systems limitations or cost constraints:

(i) Systems operated under title IV-A,

(ii) National Child Abuse and Neglect Data Systems (NCANDS),

(iii) Systems operated under title XIX, and

(iv) Systems operated under title IV-D;